

Message Text

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73

ACTION ARA-20

INFO OCT-01 ADP-00 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SS-15 USIA-15 EB-11

TRSE-00 OMB-01 OPIC-12 AID-20 IGA-02 INT-08 CIEP-02

RSR-01 /146 W

----- 124718

P R 022254Z AUG 73 ZFF1

FM AMEMBASSY BOGOTA

TO SECSTATE WASHDC PRIORITY 8768

INFO USDOC

AMCONSUL CALI UNN

AMCONSUL MEDELLIN UNN

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E O 11652: NA

TAGS: EMIN, CO

SUBJ: INTERNATIONAL MINING CO

REF STATE 151565 STATE 149310 BOGOTA 6138

BEGINSUMMARY: GOC HAS PRESENTED BILL IN CONGRESS WHICH IF APPROVED
WOULD PERMIT EXPROPRIATION OF IMC MINES WITHOUT COMPENSATION.
HERE ARE OUR ASSESSMENT OF SITUATION AND RECOMMENDATIONS FOR ACTION.

1. AT PLENARY SESSION OF SENATE JULY 31 MIN OF MINES GERARDO
SILVA APPEARED AND SUBMITTED GOVT BILL WHICH IF APPROVED WOULD
GIVE GOC EXECUTIVE BRANCH AUTHORITY TO EXPROPRIATE PROPERTIES OF
INTERNATIONAL MINING CO (IMC). AS EMB HAS REPORTED, BOTH PRES
AND MIN HAD PREVIOUSLY INDICATED INTENTION TO SUBMIT SUCH BILL.
SPECIFICALLY, BILL WOULD ALLOW EXPROPRIATION OF FIRMS EXPLOITING
ALLUVIAL DEPOSITS OF PRECIOUS METALS BY DREDGES FOR MORE THAN
30 YEARS. BILL STATES THAT IN ACCORDANCE WITH THE FINAL PARA
OF ARTICLE 30 OF THE NATIONAL CONSTITUTION, THERE WILL FOR REASONS
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OF EQUITY, BE NO COMPENSATION.

2. BILL ADDS THAT IT IS IN PUBLIC INTEREST TO EXPLOIT ALLUVIAL DEPOSITS THROUGH STATE COMPANIES OR JOINT VENTURES INCLUDING STATE COMPANIES.

3. REACTION OF LOCAL CO REP JOHN SWAN WAS THAT BILL GREATLY ENHANCES PROBABILITY OF EXPROPRIATION OF ASSETS WITHOUT COMPENSATION, THOUGH HE DOES NOT PRECLUDE POSSIBILITY THAT GOC IS MERELY TRYING TO STRENGTHEN ITS NEGOTIATING HAND TO GET 51 PERCENT WITHOUT COMPENSATION.

4. SWAN SAID MEETING OF CO COUNSEL FRANCISCO URRUTIA WITH SILVA, MON JULY 30 (PRIOR TO SUBMISSION OF BILL) HAD BEEN VERY POSITIVE WITH SILVA EXHIBITING DECIDEDLY MORE FLEXIBLE ATTITUDE. SWAN NOTED HOWEVER THAT SILVA MET WITH PRES PASTRANA ON MON EVENING. WE SPECULATE THAT WHILE PRES APPROVED OF SILVA'S MORE FLEXIBLE STANCE IN PRIVATE, AT SAME TIME HE DECIDED TO SUBMIT BILL AS PUBLIC PRESSURE TACTIC.

5. URRUTIA HAS NOT BEEN SUCCESSFUL SO FAR IN GETTING ANOTHER APPOINTMENT WITH SILVA, THOUGH SILVA HAD ON JULY 30 SUGGESTED SAME.

6. SWAN MENTIONED THAT SINCE IMC HAS NO DREDGE AT ITS FRONTINO MINE, WHICH HE DESCRIBED AS A LOW VALUE, HARD ROCK OP, DIFFICULT TO MANAGE, HE ASSUMES IT IS PRIMARILY PATO AND COCO PACIFICO WHICH ARE THREATENED.

7. IN PREVIOUS CONVERSATIONS WITH EMBOFFS, SWAN DISPLAYED INDIRECT PREFERENCE TO GO IT ALONE, BUT ON AUG 1, HE WARMLY THANKED EMB FOR ITS EXPRESSIONS OF INTEREST AND PROMISED FRANKNESS IN COMMUNICATING ANY NEED FOR MORE DIRECT HELP. HE BELIEVED IT WELL THAT EMB HAD NOT BEEN DIRECTLY INVOLVED IN NEGOTIATIONS UP UNTIL NOW, EXCEPT TO URGE BOTH SIDES TO BE FLEXIBLE.

8. ECON SOUNSELOR DISCUSSED NEW BILL AND STATUS OF NEGOTIATIONS WITH VICE MIN OF MINES HERNANDO MARQUEZ ARBELAEZ DURING LOCAL BANKERS RECEPTION EVENING OF AUG 1. ALTHOUGH MARQUEZ WAS SOMEWHAT VAGUE AND RAMBLING HE WAS EAGER TO DISCUSS QUESTION AND SPENT MORE THAN HALF HOUR REVIEWING HISTORY IMC OPS AND GOC VIEWS. LIMITED OFFICIAL USE

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GEN TENOR OF HIS REMARKS SEEMED DESIGNED TO REASSURE US THAT DESPITE SUBMISSION OF BILL GOC WAS STILL FLEXIBLE AND OPEN MINDED. IN HIS WORDS QTE NO ANGER WAS INVOLVED UNQTE AND QTE GOC'S TEMPERATURE HAD NOT RISEN EVEN ONE DEGREE UNQTE. MARQUEZ SAID ONE POINT ON WHICH GOC WAS INSISTENT WAS ITS DESIRE TO OBTAIN 51 PERCENT INTEREST. HE ALLEGED THAT AT ONE STAGE GOVT HAD THOUGHT IT HAD VIRTUAL AGREEMENT WITH IMC TO OBTAIN 51 PERCENT IN RETURN FOR NEW MINING CONCESSIONS AND ASSUMPTION OF PART OF COMPANIES'

SOCIAL SECURITY OBLIGATIONS. (LOCAL IMC AGENT DENIES THAT GOC EVER GAVE ANY INDICATION WILLINGNESS ASSUME PART OF SOCIAL SECURITY OBLIGATIONS.) MARQUEZ SAID THAT IN DISCUSSIONS IMC IS SUGGESTING THAT GOC TURN PART OF ITS 51 PERCENT OVER TO PRIVATE INVESTORS, THUS DENYING GOC MAJORITY CONTROL. DURING CONVERSATION MARQUEZ RESPONDED AFFIRMATIVELY TO LOW KEY QUERY WHETHER HE WAS AWARE OF VARIOUS PROVISIONS IN US AID LEGISLATION REGARDING COMPENSATION FOR EXPROPRIATION. HE ADDED THAT SITUATION WAS SUCH THAT QTE SOME RISKS HAD TO BE TAKEN UNQTE.

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9. WE WOULD SUMMARIZE PRESENT SITUATION AS FOLS. IN VIEW MARQUEZ STATEMENTS GOC MUST UNDERSTAND POSSIBLE IMPLICATIONS OF EXPROPRIATION WITHOUT COMPENSATION SO FAR AS US ECONOMIC AID IS CONCERNED. (WE MUST HOWEVER, NOW CONSIDER ADVISABILITY OF APPROACHING GOC TO ENSURE HIGHER LEVELS HAVE CONSIDERED ALL ASPECTS.) YET GOC IS TO ALL APPEARANCES PUBLICLY ACCEPTING THE RISK, OSTENSIBLY BECAUSE CONSIDERATIONS OF EQUITY AND NATIONALISM DEMAND IT AND BECAUSE GOC SAYS CO HAS IGNORED ITS DEMAND FOR 51 PERCENT OWNERSHIP GRATIS. BUT IF HARDER'S STATEMENTS ARE ACCURATE, IMC HAS NOT ONLY NOT IGNORED GOC'S DEMANDS BUT ON THE CONTRARY HAS MADE SEVERAL COUNTERPROPOSALS (SEE BOGOTA 5790), WHICH GOC ITSELF

HAS IGNORED. THERE IS THEREFORE OBVIOUS DISCREPANCY IN REPORTS
WE HAVE BEEN RECEIVING BOTH FROM GOC AND CO AS TO THEIR RELATIVE
DEGREES OF FLEXIBILITY.

10. WE BELIEVE IT ENTIRELY POSSIBLE THAT GOC HAS MADE DEFINITE
DECISION NOT TO SETTLE FOR ANYTHING LESS THAN 51 PERCENT INTEREST
WITHOUT ANY COMPENSATION OTHER THAN PERHAPS SOME NEW CONCESSIONS.
WE MIGHT BE BETTER ABLE TO JUDGE THIS AFTER MEETING WITH MIN.
WE CERTAINLY WOULD NOT SUGGEST THAT IMC GIVE AWAY 51 PERCENT OF
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ITS ASSETS WITHOUT ANY COMPENSATION. NONETHELESS, GIVEN THE EX-
TRAORDINARY INCREASE IN PRICE OF GOLD (IMC RECENTLY HAS BEEN
SELLING ITS PRODUCTION TO BANK OF REPUBLIC - PART IN DOLLRS
AND PART IN PESOS - AT EQUIVALENT OF 120 DOLLARS PER OUNCE),
IMC MIGHT BE BETTER OFF IN LONG RUN TO WORK OUT BEST AVAILABLE
DEAL QUICKLY RATHER THAN FOLLOW HARD LINE THAT MIGHT FORCE GOC
TO CARRY OUT ITS EXPROPRIATION WITHOUT COMPENSATION THREAT.

11. EMB AGREES WITH DEPT'S THROUGHOUT THAT WE SHOULD MAKE OFFICIA,
INFORMAL, ORAL APPROACH AT MINISTERIAL LEVEL. WE HAD BEEN PLANNING
SUCH ACTION PRIOR RECEIPT STATE 151565 AND HAVE SCHEDULED INFORMAL
LUNCHEON WITH FINAN MIN, CONFIRMATION PENDING HIS RETURN FROM
WASHINGTON. WE WOULD MEET LATER WITH MINMINES. WE WOULD PROPOSE
TO TAKE FOL LINE: A. REITERATE THAT WE DO NOT PRETEND TO JUDGE
THE ISSUES BUT THAT TO DATE THERE APPEARS TO HAVE BEEN LITTLE
NEGOTIATING FLEXIBILITY IN THE POSITIONS OF EITHER SIDE. WE
STILL HOPE A MUTUALLY ACCEPTABLE SOLUTION CAN BE WORKED OUT.
B. NOTE THE APPARENT DISCREPANCY IN THE REPORTS THAT WE HAVE
RECEIVED ON THE RESPECTIVE POSITIONS OF THE CO AND THE GOC AND
THAT THIS SUGGESTS THE POSSIBILITY THAT MISUNDERSTANDINGS BASED
ON LACK OF SUFFICIENT CLARITY MAY BE IMPEDING THE NEGOTIATIONS.
C. EXPRESS CONCERN OVER POSSIBLE IMPACT OF BILL ON (I) COLOMBIA'S
PRESENTLY EXCELLENT REPUTATION FOR FAIR TREATMENT OF FOREIGN
INVESTORS, EVEN IF NOT APPROVED AND (II) IF APPROVED AND IMPLEMENTED,
ON GENERAL US:COLOMBIAN RELATIONS. IN LATTER CONNECTION WE WOULD
IN MOST JUDICIOUS WAY POSSIBLY REMIND MIN OF VARIOUS PROVISIONS
OF US AID LEGISLATION REGARDING EXPROPRIATION WITHOUT ADEQUATE
COMPENSATION. D. STATE THAT DEPT HAS EXPRESSED POINTS A AND B
TO IMC.

12. AFTER FOREGOING WAS DRAFTED IMC AGENT SWAN TOLD US THAT
CO'S LAWYER FRANCISCO URRUTIA WASNOW MEETING WITH MIN OF MINES.
WE WILL REPORT AS SOON AS WE FIND OUT WHAT HAPPENED. WHITE

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